

Biennial Smog Certification TOP Fee

New Legislation

Effective January 1, 2009, new legislation restricts the issuance of Temporary Operating Permits (TOPs) when a biennial smog certification is required. These restrictions apply to all TOPs issued for the purpose of obtaining a biennial smog certification on or after January 1, 2009, regardless of the registration expiration date.

Changes

- Vehicle owner must present the failed smog test report as evidence that the vehicle failed a biennial smog certification when requesting a TOP.
- Collect a \$50 fee when issuing a TOP for the purpose of obtaining a biennial smog certification.
- The TOP is **only** valid for:
 - 60 days from the date of the expiration of the registration of the vehicle
 - or
 - 60 days from the date that the vehicle is removed from Planned Non-Operation (PNO).

Example: The vehicle expired or was removed from PNO status on 01/15/2009. The customer presents evidence that the vehicle failed smog certification on 02/10/2009. Issue a TOP valid until 03/15/2009.

- Only **one** biennial smog TOP can be issued to the same vehicle within a two-year period.

Continue to follow existing procedures for issuing a TOP for all other reasons, as these changes only apply to TOP issuance for **biennial** smog certification.

TOP Fee Waiver

The \$50 TOP fee can only be waived if the registered owner presents a Consumer Assistance Program (CAP) letter from the Bureau of Automotive Repair (BAR) indicating the owner qualifies for repair assistance as a **low-income** applicant. Customers **cannot** be given a refund if the letter is shown after the \$50 fee is assessed and a TOP issued.

BAR/CAP Letter of Eligibility for Repair Assistance

CAP eligibility qualifications are based on income guidelines established by the BAR. Qualifying customers must present a CAP approval letter to be eligible for a TOP fee waiver. The approval letter **must** indicate a **\$20 co-payment due**. The \$20 co-payment indicates the eligibility of low-income applicants. A customer with a CAP letter

indicating any other co-payment amount is ineligible for the waiver and must pay the \$50 fee to receive a TOP.

Background

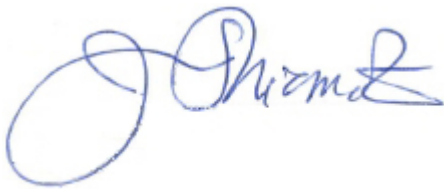
Unless otherwise exempt, vehicles registered in areas subject to the biennial smog certification program are required to submit evidence of a smog certification every other renewal period. Recent legislation requires DMV to collect a \$50 fee on vehicles that fail the **biennial** smog certification if the owner requests a TOP. After deducting the Department of Motor Vehicle's administrative costs, the fees collected are deposited into the High Polluter Repair or Removal Account, in the Vehicle Inspection and Repair Fund.

Distribution

Notification that this memo is available online at www.dmv.ca.gov under Publications was made via e-mail alert in December 2008.

Contact

Call the DMV Customer Communications Section, at (916) 657-6560 for further clarification of this memo. Upon request, this document can be produced in Braille or large print.

A handwritten signature in blue ink, appearing to read "J Shiimoto". The signature is stylized with a large loop at the beginning and a cursive script for the rest of the name.

JEAN SHIOMOTO, Deputy Director
Communication Programs Division

Attachment

**QUESTIONS & ANSWERS
TEMPORARY OPERATING PERMIT ISSUANCE
EFFECTIVE JANUARY 1, 2009**

Q: Why is DMV charging for a Temporary Operating Permit (TOP) fee when I have evidence that my vehicle did not pass the biennial smog certification?

A: The new law, effective January 1, 2009, requires DMV to collect a fee before issuing a temporary permit when a biennial smog certification is required and has not been completed. (*California Vehicle Code §4156*)

Q: Do I have to pay all the appropriate vehicle registration fees prior to receiving a TOP?

A: Yes. All fees, including any outstanding parking citations, must be paid and/or cleared before a TOP can be issued.

Q: Do I have to present evidence that my vehicle did not pass smog certification to request a TOP?

A: Yes. You must first provide a copy of the failed smog test report.

Q: What is the TOP fee?

A: The fee is \$50.

Q: Can the fee be waived?

A: The fee can be waived only if the registered owner provides a Consumer Assistance Program (CAP) letter from the Bureau of Automotive Repair (BAR) which indicates he/she qualifies for repair assistance as a low-income applicant. To qualify for CAP, your household income must meet the income guidelines set by BAR. Consult with the BAR for further information at <http://www.bar.ca.gov/>. The fee will not be refunded if you present an eligibility letter **after** receiving a TOP.

Q: How long does it take to receive the CAP letter from BAR?

A: According to the BAR, it takes approximately 14 days to have an application for financial assistance processed and approved.

Q: How long is the TOP valid?

A: The TOP is valid for 60 days after the vehicle expiration date or 60 days after the date the vehicle is removed from Planned Non-Operation (PNO) status.

Q: Where does the money go?

A: After deducting DMV administrative costs, the fee is deposited into the High Polluter Repair or Removal Account, in the Vehicle Inspection and Repair Fund.

Q: Can I get a second TOP if the first TOP expired and my vehicle still has not passed the smog certification?

A: No. Only one TOP can be issued to the same vehicle owner in a two-year period.

Q: Can I get a second TOP if the initial TOP is lost or stolen?

A: Yes, as long as the date is still within 60 days of the registration expiration date, or from the day the vehicle was removed from PNO status. However, you will have to pay another \$50, unless you were issued a no fee TOP.

Q: If my vehicle registration has expired over 60 days and has not passed the smog certification, can a TOP be issued?

A: No. A TOP can only be issued within 60 days of the vehicle expiration date or within 60 days from the date the vehicle was removed from PNO status.

Q: I purchased a vehicle through a private sale, and the registration fees are due. The vehicle did not pass smog certification; will there be a fee for a TOP?

A: No. The TOP-fee and 60-day restriction do not apply on a private party sale that requires a smog certificate. However, family transfers and other transactions that require biennial smog are subject to the TOP fee and 60-day restriction.

Q: My vehicle registration expired last week, and is due for a biennial smog certification. If I pay for the registration fees and penalties, can I get a TOP?

A: No. All vehicle registration renewal transactions requiring a biennial smog certification must *first* show proof that the vehicle failed the most recent smog test and pay the \$50 fee to receive a TOP.

Q: If I pay for the vehicle registration renewal and \$50 for the TOP, but later decide to place the vehicle on PNO before I use the TOP, can I get a refund? If not, will I have to pay the fee when the vehicle is removed from PNO?

A: The TOP fee is non-refundable. When the vehicle is removed from PNO, the vehicle is eligible for a TOP, and unless the owner qualifies for the CAP, they will have to pay another \$50 fee.

Q: My vehicle registration expired last week, and is due for smog this year. If I pay for the registration fees and penalties, can I get a TOP?

A: No. For all vehicle registration renewal transactions involving biennial smog certification, the owner must *first* show proof that the vehicle failed its most recent smog test to be eligible to receive a TOP.

Q: If I pay for the vehicle registration renewal and \$50 for the TOP, but later decide to place the vehicle on PNO before I use the TOP, am I entitled to a refund? If not, will I have to pay the fee when the vehicle is removed from PNO?

A: The TOP fee is non-refundable. When the vehicle is removed from PNO, the vehicle is eligible for a TOP, and unless the owner qualifies for CAP, they will have to pay another \$50 fee.